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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 88.

U. X. GUNTER, JR., ATTORNEY GENERAL OF THE STATE OF SOUTH CAROLINA, ET AL., APPELLANTS,

vs.

THE ATLANTIC COAST LINE RAILROAD COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA.

FILED AUGUST 25, 1904.

(19,457.)

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JULY 10, 1905.

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1 Transcript of Record.

THE UNITED STATES OF AMERICA,
District of South Carolina.

In the Circuit Court, Fourth Circuit. In Equity.

At a circuit court of the United States for the fourth circuit, in and for the district aforesaid, at the March term, 1902, before the Honorable Nathan Goff, United States circuit judge, holding said court according to the form of the act of Congress in such case made and provided, among other were the following proceedings, to wit:

In re THOMAS E. B. PEGUES, a Citizen of Mississippi, Complainant,
versus
R. I. HUMPHREYS, a Citizen of South Carolina, County Treasurer of Darlington County; John McCalla, a Citizen of South Carolina, Tax Collector for Chesterfield County, and The Cheraw and Darlington Railroad Company, a Citizen of South Carolina, Defendants.

Ex Parte: THE ATLANTIC COAST LINE RAILROAD COMPANY, a Citizen of Virginia,
vs.
G. DUNCAN BELLINGER, Attorney General of the State of South Carolina; Stevenson & Matheson, J. M. Spears, S. W. G. Shipp, I. P. Mangum, County Treasurer for Chesterfield County, South Carolina; W. H. Lawrence, County Treasurer for Darlington County, South Carolina, and J. O. McLendon, County Treasurer for Florence County, South Carolina, All of said Persons Except the Atlantic Coast Line Railroad Company Being Citizens of the State of South Carolina.

2 Order Substituting Copy of Record for Lost Record.

Filed 28 July, 1904.

UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina.

In the Circuit Court. In Equity.

In re THOMAS E. B. PEGUES, a Citizen of Mississippi, Complainant,
vs.
R. I. HUMPHREYS, a Citizen of South Carolina, County Treasurer of Darlington County; John McCalla, a Citizen of South Carolina, Tax Collector for Chesterfield County, and The Cheraw and Darlington Railroad Company, a Citizen of South Carolina, Defendants.

Ex Parte: THE ATLANTIC COAST LINE RAILROAD COMPANY, a Citizen of Virginia,
vs.
G. DUNCAN BELLINGER, Attorney General of the State of South Carolina; Stevenson & Matheson, J. M. Spears, S. W. G. Shipp, I. P. Mangum, County Treasurer for Chesterfield County, South Carolina; W. H. Lawrence, County Treasurer for Darlington County; J. O. McLendon, County Treasurer for Florence County, South Carolina, All of the said Persons Except the Atlantic Coast Line Railroad Company Being Citizens of the State of South Carolina.

U. X. GUNTER, JR., as Successor in Office to G. Duncan Bellinger, Attorney General of the State of South Carolina; Stevenson & Matheson, J. M. Spears, and S. W. G. Ship, Appellants,
against
THE ATLANTIC COAST LINE RAILROAD COMPANY, Appellee.

The original papers upon which the above entitled cause was heard before me as circuit judge having been accidentally
3 lost, and the counsel engaged in the cause having agreed that the copies of said papers hereto attached are to be used as copies of the lost papers, it is, on motion of Messrs. U. X. Gunter, Jr., attorney general of the State of South Carolina, Stevenson & Matheson, J. M. Spears, and S. W. G. Shipp, attorneys for appellants with the consent of counsel for appellee,

Ordered that said copies hereto attached be substituted and filed in the office of the clerk of this court in the place and stead of said

lost papers, and that a transcript of the same be used on the appeal herein to the Supreme Court.

NATHAN GOFF,
Circuit Judge of the United States for the District of South Carolina, in the Fourth Circuit, at Chambers, Clarksburg, W. Va., July 25th, 1904.

We consent to above order:

U. X. GUNTER, JR.,
Att'y Gen'l of S. C., Attorney for Appellants.
J. P. BARRON,
For Attorneys for Appellees.

4 Agreement of Counsel.

Filed 28 July, 1904.

THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina.

In the Circuit Court. In Equity.

In re THOMAS E. B. PEGUES, a Citizen of Mississippi, Complainant,
vs.
R. I. HUMPHREYS, a Citizen of South Carolina, County Treasurer for Darlington County; John McCalla, a Citizen of South Carolina, Tax Collector for Chesterfield County, and The Cheraw and Darlington Railroad Company, a Citizen of South Carolina, Defendants.

Ex Parte: THE ATLANTIC COAST LINE RAILROAD COMPANY, a Citizen of Virginia,
versus
G. DUNCAN BELLINGER, Attorney General of the State of South Carolina; Stevenson & Matheson, J. M. Spears, S. W. G. Shipp, I. P. Mangum, County Treasurer for Chesterfield County, South Carolina; W. H. Lawrence, County Treasurer for Darlington County, South Carolina, and J. O. McLendon, County Treasurer for Florence County, South Carolina, All of said Persons Except the Atlantic Coast Line Railroad Company Being Citizens of the State of South Carolina.

It is agreed between the counsel in the above entitled cause that the transcript on appeal shall embrace the following papers, copies of which are hereto attached:

1. *Subpœna ad re.*
2. Petition of the Atlantic Coast Line Railroad Company.
3. Return of W. H. Lawrence, county treasurer.

4. Return of I. P. Mangum, county treasurer.
5. Return of J. O. McLendon, county treasurer.
6. Return of G. Duncan Bellinger, attorney general of the State of South Carolina; Stevenson & Matheson, S. W. G. Shipp, and J. M. Spears.
7. Amendment to return an- answer in paragraph 16.
8. Agreement as to admission of facts between W. F. Stevenson and J. T. Barron, attorneys.
9. Notice of motion that the Honorable Charles H. Simonton was incapacitated to hear cause by reason of having been former complainant's counsel in same.
10. Order of Judge Simonton transferring cause to some other judge.
11. Notice of hearing before the Honorable Nathan Goff, circuit judge.
12. Statement as to admission of facts and evidence at hearing.
13. Extract from Senate Journal, January 26th, 1874.
14. Tract from House Journal, same date.
15. Affidavit of James Norton.
16. Affidavit of J. T. Barron.
17. Copy original record in cause including:
    a. Petition of Thomas E. B. Pegues.
    b. Temporary injunction.
    c. Answers of R. J. Humphreys and John McCalla.
    d. Replication of petitioner.
    e. Answer of the Cheraw & Darlington R. R. Company.
    f. Order of Judge Bryan making injunction perpetual.
    g. Petition for appeal.
    h. Summons to Cheraw & Darlington R. R. Company on appeal.
    i. Notice of severance on part of Cheraw & Darlington R. R. Company.
    j. Waiver of security on appeal.
    k. Citation on appeal.
    l. Mandate of supreme court in cause.
18. Copy petitions to railroad board of assessors.
19. Plea of the Atlantic Coast Line Railroad Company before said board.
20. Statement of counsel as to action brought in said court and sought to be enjoined.
21. Copy of first cause of action in complaint sought to be enjoined.
22. Extract from Revised Statutes of South Carolina, 1893, embracing sections 233 to 242, in relation to assessment of railroad property.
23. Decree of circuit court, dated January 16th, 1903.
24. Statement of counsel as to the expiration of the term of office of G. Duncan Bellinger and his successors assuming the office in his place.

25. Supplementary decree of Judge Goff, dated July 31st.
Also 26. Petition for appeal and order allowing same, dated July 16th, 1904.
27. Assignment of errors.
28. Bond on appeal and order approving same, dated July 16th, 1904.
29. Citation to J. P. Mangum, W. H. Lawrence and C. S. Lucas, treasurers.
30. Notice of severance on appeal by J. P. Mangum, W. H. Lawrence and C. S. Lucas, county treasurers.
31. Citation on appeal to Atlantic Coast Line Railroad Company.
32. Clerk's certificate.

It is further agreed between counsel for appellants and appellee that inasmuch as the original papers upon which the above entitled cause was heard by the circuit judge were accidentally lost or destroyed by fire in the mail, before their return to the office of the clerk of said court, and true copies of said lost records have been found by attorneys in the cause are attached hereto, that said copies shall be substituted on file in the office of the clerk of this court for the originals so lost, and used in making the transcript on
7 appeal in this cause.

U. X. GUNTER, JR.,
Attorney General of S. C.,
STEVENSON & MATHESON,
J. M. SPEARS,
S. G. W. SHIPP,
Attorneys for Appellants.
J. T. BARRON,
For Attorneys for Appellee.

8 *Subpœna ad Respondendum.*

Filed October 2, 1901.

UNITED STATES OF AMERICA, FOURTH CIRCUIT, }
District of South Carolina. }

The President of the United States of America to G. Duncan Bellinger, attorney general of the State of South Carolina; Stevenson & Matheson, J. M. Spears, S. W. G. Shipp, I. P. Mangum, county treasurer for Chesterfield county, South Carolina; W. H. Lawrence, county treasurer for Darlington county, South Carolina, and J. O. McLendon, county treasurer for Florence county, South Carolina, all of said persons being citizens of the State of South Carolina:

You are hereby strictly commanded and firmly enjoined that all manner of excuses being laid aside, you be and appear before the judges of the circuit court of the United States for the district of